

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Firehouse Restaurant Group, Inc., a Florida)
corporation, Three Alarm Subs, Inc., a South)
Carolina corporation, and Fireside Restaurant)
Company, Inc., a South Carolina corporation,)

Plaintiffs,)

vs.)

Scurmont LLC, d/b/a Calli Baker's Firehouse)
Bar & Grill, and Heath Scurfield, an individual,)

Defendants.)

Civil Action No. 4:09-cv-00618-RBH

VERDICT FORM

I. Defendants' Claim of Cancellation of Trademark Based on Fraud on the U.S. Patent & Trademark Office

Question 1. Do you find that the Defendants have proved by clear and convincing evidence that Plaintiff Firehouse Restaurant Group, Inc. obtained the registration for the trademark FIREHOUSE, Registration Number 3,173,030, through fraud on the U.S. Patent & Trademark Office?

(Mark the appropriate space below)

☒ **YES, Firehouse Restaurant Group, Inc. DID COMMIT FRAUD**



☐ **NO, Firehouse Restaurant Group, Inc. DID NOT COMMIT FRAUD**







** If you have checked "YES" above, then when you answer "Question 2" below you must find that there was no infringement with regard to trademark FIREHOUSE, Registration Number 3,173,030. However, you must still decide whether or not there was infringement regarding all of the remaining marks.*








II. Plaintiffs' Claims of Trademark Infringement, False Designation of Origin, & Unfair Competition


Question 2. The Plaintiffs accuse the Defendants of infringing Plaintiff Firehouse Restaurant Group, Inc.'s registered trademarks shown below. For each trademark, you must determine if the Defendants doing business as Calli Baker's Firehouse Bar & Grill infringed that particular trademark. The Plaintiffs must prove the infringement by a preponderance of the evidence. After you have deliberated and reach an unanimous verdict as to each trademark, you should check the appropriate box and indicate whether or not you found infringement as to the particular trademark.

(Mark "YES" or "NO" for each mark below)

<u>IS THE MARK INFRINGED?</u>		<u>MARK</u>	<u>REG. NO.</u>	<u>CLASS/USE</u>
YES _____	NO <input checked="" type="checkbox"/>		1,903,135	Restaurant Services
YES _____	NO <input checked="" type="checkbox"/>		1,983,934	Restaurant Services, Providing of Food and Drink
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	2,606,263	Restaurant Services specializing in submarine style sandwiches for public consumption

<u>IS THE MARK INFRINGED?</u>		<u>MARK</u>	<u>REG. NO.</u>	<u>CLASS/USE</u>
YES _____	NO <input checked="" type="checkbox"/>		2,756,249	Conducting employee incentive award programs to promote ownership of employee-owned franchise restaurants
YES _____	NO <input checked="" type="checkbox"/>		2,795,059	Charitable Fund Raising
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	2,795,060	Charitable Fund Raising
YES _____	NO <input checked="" type="checkbox"/>		2,866,824	Clothing, namely t-shirts, golf shirts and polo shirts
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE	3,000,715	Clothing, namely shirts
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS FIRST RESPONDER RELIEF FUND	3,006,000	Charitable fundraising; charitable fundraising services for victims of natural disasters and other catastrophes
YES _____	NO <input checked="" type="checkbox"/>		3,006,002	Charitable fundraising, namely, a fund for victims of natural disasters and other catastrophes
YES _____	NO <input checked="" type="checkbox"/>		3,012,834	Restaurant Franchising
YES _____	NO <input checked="" type="checkbox"/>		3,012,835	Restaurant Services
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	3,014,796	Restaurant Franchising
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE STEAK SUB	3,017,189	sandwiches
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE "HERO" SUB	3,017,190	sandwiches
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	3,027,225	Cereal based snack foods; foods, namely cookies and brownies

<u>IS THE MARK INFRINGED?</u>		<u>MARK</u>	<u>REG. NO.</u>	<u>CLASS/USE</u>
YES _____	NO <input checked="" type="checkbox"/>		3,027,226	Cereal based snack foods; foods, namely cookies and brownies
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	3,031,377	Pastries and desert items, namely cookies and brownies
YES _____	NO <input checked="" type="checkbox"/>		3,031,378	Pastries and desert items, namely cookies and brownies
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE PARTY PLATTERS	3,034,141	Catering services and restaurant services
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	3,063,736	Stickers
YES _____	NO <input checked="" type="checkbox"/>		3,063,737	Stickers
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	3,065,955	Bags, namely paper bags
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	3,070,837	Hats; toy vehicles
YES _____	NO <input checked="" type="checkbox"/>		3,070,838	Hats; toy vehicles
YES _____	NO <input checked="" type="checkbox"/>		3,070,844	Bags, namely paper bags
YES _____	NO <input checked="" type="checkbox"/>		3,082,197	Paper for wrapping and packaging of food
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	3,082,196	Paper for wrapping and packaging of food
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE	3,173,030	Restaurant Services
YES _____	NO <input checked="" type="checkbox"/>		3,136,447	Restaurant Services

IS THE MARK INFRINGED?		MARK	REG. NO.	CLASS/USE
YES _____	NO <input checked="" type="checkbox"/>		3,136,446	Restaurant Franchising
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	3,261,752	Gift cards; Magnetically encoded credit cards
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE FUNDS	3,330,363	Magnetically encoded credit cards
YES _____	NO <input checked="" type="checkbox"/>	FIREHOUSE SUBS	3,382,694	Financial services in the field of money lending; Consumer lending services


 Jury Foreperson

Florence, South Carolina
 August 19, 2011